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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,360	11/26/2003	Bill Thomas Brazil	BTB-001	9962

7590 07/01/2005

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EXAMINER

SHAKERI, HADI

ART UNIT	PAPER NUMBER
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3723

DATE MAILED: 07/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/723,360

Applicant(s)

BRAZIL, BILL THOMAS

Examiner

Hadi Shakeri

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION***Specification***

1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

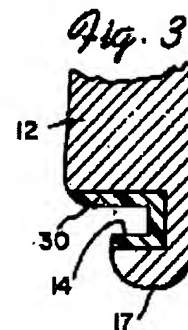
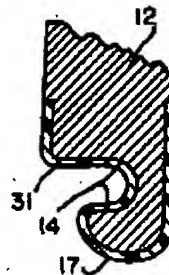
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4, 8, 9 and 33 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson (3,771,581).

Johnson discloses all of the limitations of claims 1 and 33, i.e., a tire lever (10) comprising a thermoplastic polymer (Teflon) coating at one end.

Regarding claims 2-4, 8 and 9, Johnson meets the limitations, e.g., (03:29-38).



4. Claims 1-5, 11 is rejected under 35 U.S.C. 102(b) as being anticipated by AAPA (Applicant's Admitted Prior Art).

Prior art as admitted by applicant (AAPA), i.e., page 3, lines 1-5 discloses all of the limitations of claim 1, i.e., a tire lever comprising a thermoplastic polymer (nylon) coating at one end. Note that while "sheathing" may not be met the tool made of glass-injected nylon, "coating" as recited in claim 1 is considered met.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 5-7 and 10-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson either in view AAPA.

Johnson as disclosed above meets all of the limitations of above claims, except for the specific type of polymer, tool with two working ends having different coatings, the protective material being in the form of a sheath, a kit/lubricating agent.

AAPA discloses different type of non-marring polymers, tools having two working ends, and tool kit, all as being known. It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the invention of Johnson with different polymers, e.g., nylon, and including the tool in a kit as being obvious to one of ordinary skill in the art, all known in the art, as evident by AAPA. With regards to the other particular materials, it is noted that it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a specific material is considered and held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416, and further, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Regarding claim 7, Johnson in view AAPA meets the limitations, except for disclosing different coating for the ends, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the coating different for the different ends,

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dependent on work-piece parameters, involves only routine skill in the art. *In re Stevens*, 101 US PQ 284(CCPA1954), in adapting the tool for different workpiece, e.g., harder/softer rim, or rimes made of different materials.

Regarding claim 32, Johnson in view AAPA meets the limitations, except for disclosing container means, including tire chaining related tools, material..., e.g., cleaning towels, soaps to lubricate the rims...to improve marketability is considered obvious to one of ordinary skill in the art.

Conclusion

7. Prior art made of record and not relied upon are considered pertinent to applicant's disclosure. Magnani, Doan, and Winefordner are cited to show related inventions.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hadi Shakeri whose telephone number is (571) 272-4495. The examiner can normally be reached on Monday-Thursday.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Hadi Shakeri
Primary Examiner
Art Unit 3723
June 27, 2005